

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**RANDALL L. JOHNSON,**

Plaintiff,

v.

**MICHAEL J. ASTRUE,**  
Commissioner of Social Security,

Defendant.

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) No. 3:10-CV-06323-HU  
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**OPINION AND ORDER ADOPTING  
FINDINGS & RECOMMENDATION  
ON MOTION FOR EAJA FEES**

**SIMON, District Judge.**

On March 9, 2012, this court reversed the Commissioner's decision denying Plaintiff Randall L. Johnson's applications for disability insurance benefits and remanded the case to the agency for the immediate calculation of benefits. Plaintiff now moves for an award of attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, in the amount of \$4,078.02. Dkt. #30. The parties have stipulated to this amount as a compromise settlement. Magistrate Judge Dennis Hubel has made findings and recommends that the motion be granted. Dkt. #33. Neither party has filed objections to Judge Hubel's findings and recommendation.

Under the Federal Magistrates Act, the court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." Federal Magistrates Act, 28

U.S.C. § 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3). If, however, no objections are filed, the Magistrates Act does not prescribe any standard of review. In such cases, “[t]here is no indication that Congress, in enacting [the Magistrates Act], intended to require a district judge to review a magistrate’s report[.]” *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.) (*en banc*), *cert. denied*, 540 U.S. 900 (2003) (the court must review *de novo* the magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Federal Rule of Civil Procedure 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Hubel’s findings and recommendation for clear error on the face of the record. No such error is apparent. Therefore the court orders that Judge Hubel’s findings and recommendation (#33) is ADOPTED. Plaintiff’s motion for EAJA fees in the amount of \$4,078.02 (Dkt. #30) is GRANTED.

Dated this 9th day of July, 2012.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge